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March 20, 2007

VIA E-MAIL AND HAND DELIVERY

Hon. John Bohn, Commissioner
California Public Utilities Commission
505 Van Ness Ave., 5th Floor
San Francisco, CA 94102

Re: Response to Letter of Dana Appling Regarding
San Gabriel Valley Water Company A.08-05-021

Dear Commissioner Bohn:

This responds to the highly misleading letter from DRA Director Dana Appling delivered to all Commissioners on Monday, March 12, just three days before the Commission will meet to consider adoption of a proposed decision and an alternate proposed decision in San Gabriel's general rate case that has been pending for 19 months. That letter was served on the company only long after the close of business on that day, in violation of the Commission's ex parte notification rules. In the letter, Ms. Appling, who also purports to speak for the City of Fontana, wrongly asserts that San Gabriel's undersigned counsel made "misstatements" about a DRA calculation of possible rate base increases at the recent oral argument in this case. It is Ms. Appling—together with DRA and the City of Fontana—who presented misstatements to the Commission on this important issue.

The DRA handout at the oral argument showed "Avg Rate Base, Escalation Year 2008-2009" in the amount of \$98,742,200 under the PD and \$105,017,700 under the APD, based on "TY 2007-2008 from Appendix A, p2, escalated at 10%." To those amounts DRA added a "Sandhill Advice Letter Rate Base Increase" of \$35 million. During the oral argument, I pointed out, as both the PD and the APD expressly recognize, that \$12 million of the \$35 million total estimated cost of the Sandhill Plant upgrade project already was included in the rate base adopted for the first test year (July 2006 through June 2007, which is almost over), so the incremental rate base increase to be effected by advice letter would be the remainder of approximately \$23 million. My statement about the \$12 million was based on the PD and the APD Finding of Fact No. 41, the second sentence of which reads as follows in each document:

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"San Gabriel's TY 2006-2007 rate base includes \$12 million already expended on the Sandhill plant."

That Finding of Fact coincides with San Gabriel's application and the company's evidence and testimony in the case, which proposed including an estimated \$12 million in Test Year 2006-2007 rate base with the remainder to be added gradually by the filing of advice letters to minimize rate shock. Whatever DRA might speculate that Water Division included in its calculation of Appendix A to the PD and the APD, Finding of Fact No. 41 declares the intent and understanding of those documents—and that intent and understanding are consistent with San Gabriel's proposal and the evidence and the testimony in this case. Unfortunately, it is the poorly explained tables that DRA handed out at the oral argument that conflict with the very well-developed record in this case. It is Ms. Appling, not I, who misunderstands the treatment of Sandhill Plant upgrade project investments expressly intended by the PD and the APD. The corrections to the flawed DRA handout that I offered during the oral argument were entirely appropriate.

But the central issue that DRA and the City of Fontana continue to dodge and attempted to obscure at the oral argument and in Ms. Appling's letter is the overwhelming merit of the Sandhill Plant upgrade project itself, irrespective of how much of the project cost is included in test year rate base. Both the PD and the APD conclude that the Sandhill Plant upgrade project is cost effective and highly beneficial to Fontana Water Company's customers. Both the PD and the APD expressly approve the Sandhill Plant upgrade project and expressly state that it is needed and should be built.

Delivering those economical supplies into San Gabriel's distribution system near the highest point in the Company's service area not only will maximize use of inexpensive supplies, but also *will minimize the cost of power for pumping* water to the point of use. *It is needed and should be completed.*"

PD at 39, APD at 38 (emphasis added).

Contrary to Ms. Appling's misleading and outright incorrect assertions, both the PD and the APD recognize the extraordinary merit and need for the Sandhill Plant upgrade project. Indeed, both the PD and the APD agree that the cost of the Sandhill Plant upgrade project should be added to rate base, though they differ on when those costs are to be added. San Gabriel's application requested that the costs of the project beyond the amount included in test year rate base be added to rate base in two separate advice letter filings (\$18 million in 2006 and \$4 million in 2007). The PD would add the remaining amounts to rate base in the next general rate case, but the APD correctly concludes that those remaining amounts should be added by advice letter filings. That conclusion is entirely consistent with past Commission decisions, in particular Decision 01-08-039, which allowed California Water Service to add the cost of a very

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similar surface water treatment plant to the rate base for its Bakersfield District through a series of advice letter filings, just as the APD would do in this case.

The advice letter process authorized by the APD also allows the company to give timely effect to the Facilities Fees it receives – thereby significantly moderating the effect of the Sandhill Plant upgrade project rate base offsets. Here, again, the DRA handout accompanying Ms. Appling's letter is misleading because it wrongly states that all of the Facilities Fees will be based on the smallest connection size (5/8") when the record in this case clearly shows that most, if not all, of the new connections projected in this case will be one inch or larger—which, in turn, will yield a substantially greater amount of Facilities Fees—with an even greater moderating effect on rate base.

Finally, beyond the misleading and erroneous assertions Ms. Appling presents in her letter and the accompanying handout, the Commission should admonish DRA and the City of Fontana for the manipulative manner in which they lodged the letter at the last minute just before this Thursday's Commission Conference which is scheduled to take up consideration of the PD and the APD. If DRA and the City took issue with my comments at the oral argument, they should have done so promptly instead of waiting ten days until almost the eve of the Commission's Conference—and then compounding that transgression by delaying the required notice to San Gabriel until well after normal business hours.

For the foregoing reasons, the Commission should not countenance such improper tactics and should reject Ms. Appling's erroneous and misleading letter.

Very truly yours,

/S/ MARTIN A. MATTES

Martin A. Mattes
of NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

MAM/jw

cc: All Commissioners (by hand and e-mail)
Hon. Robert A. Barnett, Administrative Law Judge (by hand and e-mail)
Dana S. Appling, Director, DRA
Robert Lane (by hand and e-mail)
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